

REMARKS

The present amendment is submitted in response to the Office Action dated January 29, 2008, which set a three-month period for response. Filed herewith is a Request for a Two-month Extension of Time, making this amendment due by June 29, 2008.

Claims 1-11 are pending in this application

In the Office Action, claims 1-11 were rejected under 35 U.S.C. 102(e) as being anticipated by USPG Pub. No. 2007/0175054 to Murray.

In the present amendment, the specification has been amended to add a cross reference to the related priority documents, to add standard headings, and to delete reference to the claims.

Regarding the substantive rejection of the claims, the Applicants respectfully disagree that the cited reference to Murray discloses all of the features of independent claim 1.

Claim 1 defines a marking device with at least one light source as well as means for producing a first optical projection line, means for producing a second optical projection line, and means for producing a third optical projection line. The first and second projection lines form an angle of 90° The third projection line forms an angle of 45° with the first projection line as well as with the third projection line, and therefore bisects the first and second projection lines.

The optical marking device of the present invention makes it possible to display simultaneously three optical projection lines on a reference surface,

whereby these three projection lines are arranged in the above-described manner.

The projection of three projection lines with the device of Murray is NOT possible. As shown in Fig. 2, for example, as well as the associated description of Murray, the device has a pivotable projection unit, which makes it possible to display a single projection line at different angles on a reference surface. In Murray's Fig. 2, possible alternative orientations of the projection head are shown. A simultaneous production of three lines, therefore, is neither possible nor obvious.

Indeed, in paragraph [0059], Murray teaches that the device can also have multiple light sources in order to display two or more lines on a reference surface. However, the claimed subject matter of the present invention, that is, three lines in one plane, which are offset to one another at 45°, respectively, is neither disclosed nor suggested by Murray. As the only example of a simultaneous crossline system, paragraph [0059] of Murray, together with Fig. 19, disclose and show a two-line system, in which both lines form a right-angled cross.

Again, Murray fails to disclose the simultaneous production of three projection lines that are arranged as specifically recited in claim 1. Therefore, the rejection of claim 1 under Section 102 cannot stand. Murray cannot be an appropriate reference either under, **MPEP section 2131**, which indicates that to anticipate a claim a reference must teach every element of the claim in as complete detail as is contained in the Applicant's claim, or under **MPEP section 2143.03**, since not all of Applicant's claim limitations are taught or suggested.

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', written over the printed name.

Michael J. Striker
Attorney for Applicant(s)
Reg. No. 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700